

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

STOKLEY PAUL AUSTIN	§	
VS.	§	CIVIL ACTION NO. 1:21-CV-95
UNITED STATES OF AMERICA	§	

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Stokley Paul Austin, a prisoner confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se* and *in forma pauperis*, filed this civil action pursuant to the Federal Tort Claims Act (FTCA) against the United States of America.

The Court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action without prejudice for failure to state a claim because Plaintiff's claims for damages are not cognizable unless his conviction is invalidated.

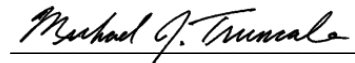
The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed a Response to Report and Recommendation, which the Court liberally construes as objections to the magistrate judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court concludes the objections are without merit. Plaintiff requests an extension of time to correct deficiencies in his Complaint. In this case, any deficiencies cannot be cured by amending his Complaint because Plaintiff's FTCA claim is not cognizable unless his conviction is reversed on direct appeal, expunged, or otherwise invalidated. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

ORDER

Accordingly, Plaintiff's objections [Dkt. 17] are OVERRULED. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge [Dkt. 13] is ADOPTED. A final judgment will be entered in accordance with this order.

SIGNED this 19th day of March, 2024.

A handwritten signature in black ink, reading "Michael J. Truncala", is positioned above a horizontal line.

Michael J. Truncala
United States District Judge